HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL NO. 715 OF 2006

BETWEEN

A.P. Mahesh Co-operative Urban Bank Ltd.
Hyderabad

.....Appellant

And

M/s Nanda Printers,
Proprietary concern rep. by its Proprietrix
Smt. Nanda Bai, Hyderabad & another

.....**Respondents**

:: JUDGMENT ::

Counsel for the Appellant : Smt. V. Dyumani

Counsel for Respondent Nos. 1 and 2 : Dr. P.B. Vijaya Kumar

Dated: 27.06.2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 16.02.2006 passed by the learned Single Judge in Writ Petition No.2887 of 2006 whereby he set aside the rejection of the appeal preferred by the respondents and ordained the Debts Recovery Tribunal,

Hyderabad(for short, 'the Tribunal') to consider the application filed by them for setting aside default order dated 30.11.2005 on its own merits and in accordance with law.

One of the several grounds on which the appellant has challenged the order of the learned Single Judge is that while deciding the writ petition filed by the respondents, its plea regarding availability of an effective alternative remedy by way of appeal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the 2002 Act') has not been considered.

Learned counsel for the appellant re-iterated that the learned Single Judge committed a serious error by entertaining the writ petition despite the fact that an effective alternative remedy of appeal was available to the respondents. She submitted that the 2002 Act is a code unto itself and the remedies available to the aggrieved persons under Sections 17 and 18 thereof should be treated as effective alternative remedies and the High Court should be extremely loath to entertain a petition filed under Article 226 of the Constitution of India ignoring the availability of alternative remedy of application and appeal.

Dr. P.B. Vijaya Kumar, learned counsel for the respondents submitted that in view of the objections raised on behalf of the appellant, his clients may be permitted to withdraw the writ petition with liberty to avail the remedy of appeal under Section 18 of the 2002 Act.

In the facts and circumstances of the case, we deem it proper to accept the request of the learned counsel and grant leave to the respondents to withdraw Writ Petition No.2887 of 2006 with liberty to file an appeal against order dated 17.01.2006 passed

by the Tribunal in I.A.No.17 of 2006 in S.A.No.60 of 2005.

As a sequel to acceptance of the request made on behalf of the respondents, we declare that the appeal stands allowed and Writ Petition No.2887 of 2006 filed by the respondents shall be deemed to have been dismissed with liberty to them to avail the remedy of appeal.

It will be open to the respondents to file an application for condonation of delay. On its part, the appellant shall be free to raise all legally permissible objections to oppose the prayer for condonation of delay in filing of the appeal. It will also be open to the appellant to contend that in view of the developments which have taken place during the pendency of S.A.No.60 of 2005 and I.A.No. 17 of 2006, the main application filed by the respondents be disposed of as infructuous.

G.S. SINGHVI, CJ

G. V. SEETHAPATHY, J

27.06.2006
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